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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,295	09/06/2007	Toshiaki Nakanishi	09792909-6681	5025

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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

EXAMINER	
EDWARDS, PATRICK L	
ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
10/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/596,295	NAKANISHI, TOSHIAKI	
	Examiner	Art Unit	
	Patrick L. Edwards	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 September 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☒ Claim(s) *1-4* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06-08-2006 & 12-14-2007 & 04-06-2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the metes and bounds of the term "in the presence of person" are unclear. How close does another person have to be in order to be considered "in the presence" of the person?

Further regarding claim 1, the metes and bounds of the phrase "a predetermined ratio of a screen" are unclear as presently recited. The phrase does not make sense. A ratio is a proportional relationship between two things. Here, only one thing -- a screen -- is recited. Thus, no ratio can exist. The Examiner believes that this problem can be remedied with a diferent choice of words. Please note that the above discussion of the usage of the term "ratio" in the claim applies to all of its usages.

Regarding claim 2, the claim also suffers from misuse of the term "ratio".

Regarding claim 3, the claim also suffers from misuse of the term "ratio" in various different instances.

Further regarding claim 3, is it just the chroma correcting means that corrects in response to outputs from the other recited means, or does the gradation correcting means also do its correcting in response to outputs from the other means. Given the way the claim is presently recited, it is ambiguous. Regarding claim 4, the claim also suffers from misuse of the term "ratio".

Claim Objections

3. The following sections of 37 CFR §1.75(a) and (d)(1) are the basis of the following objection:

> (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.
>
> (d)(1) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

4. Claims 1-4 are objected to under 37 CFR §1.75(a) and (d)(1) as failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Regarding claim 1, the metes and bounds of the term "in the presence of person" are unclear. How close does another person have to be in order to be considered "in the presence" of the person?

Further regarding claim 1, the metes and bounds of the phrase "a predetermined ratio of a screen" are unclear as presently recited. The phrase does not make sense. A ratio is a proportional relationship between two things. Here, only one thing -- a screen -- is recited. Thus, no ratio can exist. The Examiner believes that this problem can be remedied with a diferent choice of words. Please note that the above discussion of the usage of the term "ratio" in the claim applies to all of its usages.

Regarding claim 2, the claim also suffers from misuse of the term "ratio".

Regarding claim 3, the claim also suffers from misuse of the term "ratio" in various different instances.

Further regarding claim 3, is it just the chroma correcting means that corrects in response to outputs from the other recited means, or does the gradation correcting means also do its correcting in response to outputs from the other means. Given the way the claim is presently recited, it is ambiguous.

Regarding claim 4, the claim also suffers from misuse of the term "ratio".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,301,440 to Bolle et al. ("Bolle").

Regarding claim 1, Bolle discloses judging the presence of person by detecting a face of person from an inputted image (See col. 4 line 20).

Bolle further discloses determining that the inputted image is a landscape photo image in the absence of person (See col. 4 lines 16-45).

Bolle further discloses calculating an area of face and counting the number of people in the presence of person (See col. 4 lines 29-39).

Belle discloses determining that the inputted image is a snapshot photo image based on the size of the area of the face and the number of people in the presence of the person (See Bolle col. 4 lines 27-43). Bolle does not expressly disclose making these determinations on the basis of a comparison with a threshold value. But it would have been obvious to a person having ordinary skill in the art at the time of the invention to make the determinations based on such a comparison. Indeed, this seems like the most intuitive way of making such a determination, and it was certainly well known in the art.

Regarding claim 2, Bolle does not expressly discuss threshold values or recite a specific one. But it would have been an obvious matter of design choice to choose 20%.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bolle and USPN 7,440,593 to Steinberg ("Steinberg").

Regarding claim 3, Bolle discloses means for performing all of the recited steps in claim 1. Bolle further discloses that processing of the image is altered on the basis of the image detections. Bolle fails to expressly disclose these image alterations as chroma correcting and gradation correcting. Steinberg, in the same field of endeavour, does disclose these limitations (See, e.g., Steinberg col. 30 line 45 – line 31 line 14). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include these specific type of processing because they are well know image processing methods and they are types of corrections that are known to be performed and work well alongside face detection schemes.

Regarding claim 4, please incorporate the above analysis with respect to claim 2.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick L. Edwards whose telephone number is 571-272-5371. The examiner can normally be reached on M-F, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patrick L. Edwards Art Unit 2624

Ple

/Bhavesh M Mehta/
Supervisory Patent Examiner, Art Unit 2624